

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the)	
)	
Merger of the Parent Corporations of)	Docket No. UT-991358
Qwest Communications Corporation,)	
LCI International Telecom Corp.,)	
USLD Communications, Inc.,)	
Phoenix Network, Inc.)	
and U S WEST Communications, Inc.)	

Rebuttal Testimony of

Mark S. Reynolds

Director – Washington Wholesale Regulatory Affairs

U S WEST Communications, Inc.

February 22, 2000

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I. INTRODUCTION

A. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND POSITION WITH
U S WEST COMMUNICATIONS, INC.

A. My name is Mark S. Reynolds. I am employed by U S WEST as Director – Wholesale
Regulatory Affairs. My business address is Room 3206, 1600 7th Ave., Seattle, WA 987191.

Q. PLEASE DESCRIBE YOUR BACKGROUND AND WORK EXPERIENCE.

A. I have a Bachelor of Arts, in English, from Oregon State University (1977) and a Masters of
Business Administration (1979) from the University of Montana. I joined Pacific Northwest
Bell (“PNB”) in 1981 as a business sales account manager. I moved to product management
where I was responsible for a wide range of product, pricing, and costing support for PNB
products and services. I assisted in PNB’s post-Divestiture state regulatory pricing dockets
involving local telephone service, long distance and switched/special access services.

I have held various director positions in costs, economic analyses, pricing, planning and
interconnection for U S WEST Communications, Inc. (U S WEST) in the marketing and
regulatory areas. I was responsible for ensuring economic pricing relationships between and
among U S WEST’s product lines, including telephone exchange service, long distance, and
switched/special access services. I represented U S WEST, both as a professional pricing
policy witness, and as the lead company representative, in a number of state regulatory and
industry pricing and service unbundling workshops. I managed a staff of over 100

1 employees responsible for the economic analyses and cost studies that supported
2 U S WEST's tariffed product and service prices and costs before state and federal regulators.
3 In the recent past, I managed U S WEST's interconnection pricing and product strategy and
4 the interconnection negotiation teams that were in pursuit of interconnection and resale
5 contracts with new local service providers. Also, I managed U S WEST's cost advocacy and
6 witness group which was responsible for providing economic cost representation in
7 telecommunications forums, workshops and regulatory proceedings.

8 I am currently the Wholesale Regulatory Affairs Director responsible for managing all
9 wholesale oriented regulatory matters in the state of Washington.

10 Q. HAVE YOU PREVIOUSLY TESTIFIED?

11 A. Yes. I have appeared as a witness on issues relating to pricing, costs, and policy in regulatory
12 proceedings in the states of Washington, Oregon, Colorado, Iowa, Idaho and South Dakota.
13 I have participated in interconnection, unbundling, pricing and cost workshops sponsored by
14 the state commissions in Washington, Oregon, Colorado, Nebraska, Minnesota, North
15 Dakota, and Montana. Specific to the state of Washington, I have provided pricing, cost, and
16 policy testimony in the Generic Docket, UT-960369 et al.; the Collocation Docket, UT-
17 960323 et al.; the ATTI Arbitration Docket, UT-990385; the AirTouch Paging Arbitration
18 Docket, UT-990300; and the IntraLATA Telecommunications Plan Docket, U-85-23. I have
19 also represented U S WEST through comments and at various workshops in conjunction with
20 wholesale rulemaking proceedings such as the Carrier-to-Carrier Service Standards

1 Rulemaking, Docket UT-990261; the 252(i) Rulemaking, Docket UT-990391; and the
2 Collocation Rulemaking, Docket UT-990582.

3 **Q. PLEASE DESCRIBE THE PURPOSE OF YOUR REBUTTAL TESTIMONY.**

4 **A.** The purpose of my rebuttal testimony is to respond to certain portions of the testimony of
5 Staff and the intervenors that predicate completion of the merger on a number of conditions
6 involving wholesale service provisioning and pricing. My testimony will establish that these
7 wholesale issues have no bearing on this merger and that that there are other, existing
8 dockets in this state that are the appropriate venues for wholesale issues to be heard and
9 resolved. I will also discuss how some of the issues and conditions that are raised have
10 already been resolved by either state and/or federal orders and are in the process of being
11 implemented.

12 The intervenors also make many unfounded, irrelevant accusations regarding U S WEST's
13 wholesale service provisioning. In the interest of time I will not attempt to respond to every
14 allegation, but I will rebut the most egregious contentions.

15 Finally, I will summarize U S WEST's response to the eight merger conditions that a number
16 of the intervenors cite as a precondition for the Commission's merger approval.

17

**I. THE MERGER DOCKET IS NOT THE PROPER FORUM FOR THE
WHOLESALE ISSUES RAISED BY THE STAFF AND INTERVENORS**

**A. WHY DO YOU BELIEVE THAT THE WHOLESALE ISSUES RAISED BY THE
INTERVENORS SHOULD HAVE NO BEARING ON THE MERGER?**

A. The wholesale issues raised by the intervenors have no bearing on the merger because there are already established processes, procedures, and pending dockets dealing with virtually every wholesale issue raised by the intervenors. Additionally, nothing about the merger affects the Commission's ability to regulate the wholesale transactions between U S WEST and its wholesale customers in the future. U S WEST Communications will continue to be the same company in its same corporate form with its same assets and infrastructure after the merger. All applicable state and federal laws associated with U S WEST's provisioning of interconnection, unbundled network elements (UNE), resale, and access services will still apply to a post-merger U S WEST. This means that all existing interconnection agreements will remain in effect and that the Commission will continue to have the authority to enforce the agreements through the interconnection agreement enforcement procedures contained in WAC 480-09-530. More importantly, the intervenors that raise wholesale service related issues in this proceeding will have the same ability that they have today, after the merger, to bring their concerns to the Commission for resolution, either through a formal complaint or under the more

1 expedited interconnection agreement enforcement rule.

2 U S WEST will also continue to be subject to all federal requirements emanating from
3 Telecommunications Act of 1996, including, but not limited to Sections 251, 252, 271,
4 and 272 of the Act.

5 **A. MANY OF THE ISSUES RAISED BY THE INTERVENORS INVOLVE**
6 **U S WEST'S IMPLEMENTATION OF FCC ORDERS.¹ DOES THE MERGER**
7 **CHANGE U S WEST'S RESPONSIBILITY FOR COMPLYING WITH FCC**
8 **ORDERS?**

9 A. No, and it should be noted that with respect to the deployment of the services discussed in
10 the testimony that is referenced in the footnote, U S WEST intends to offer all required
11 services within the timeframes required by the FCC orders. This includes new unbundled
12 loop and other UNE products required by the UNE Remand Order (CC Docket 96-98),
13 new collocation products and terms required by the Advanced Services Order (CC Docket
14 No. 98-147), and line sharing required by the Line Sharing Order (CC Docket Nos. 98-
15 147, 96-98).

16 **A. ARE THERE ANY WASHINGTON STATE PROCEEDINGS THAT ARE**
17 **SPECIFICALLY TAILORED TO DEAL WITH SOME OF THE ISSUES THAT**
18 **THE INTERVENORS RAISE IN THIS PROCEEDING?**

19 A. Yes. One of the principal merger conditions advanced by all of the intervenors² is the

¹ Rhythms Links, Gentry, page 6, lines 11-14; Covad, Moya, pages 13-14; AT&T, Ward, page 23, lines 22-26

² McLeodUSA, Stewart, page 24; AT&T, Ward, page 47; Covad, Moya, Exhibit B; NEXTLINK, Knowles, page 17

1 establishment of carrier-to-carrier service standards, service monitoring and reporting
2 processes, and provisions for remedial or corrective action to maintain acceptable
3 performance levels. The Carrier-to-Carrier Service Standards Rulemaking, Docket UT-
4 990261, was initiated by the Commission to allow the industry to present evidence in
5 support of specific wholesale service standard proposals to aid the Commission in
6 determining the form and substance of wholesale service standard rules for Washington.
7 Docket UT-990261 has included multiple rounds of comments and exploratory
8 workshops and has had broad participation from both the incumbent local exchange
9 carriers (U S WEST, WITA, GTE, and SPRINT) and the competitive local exchange
10 carriers (Covad, NEXTLINK, Rhythms, AT&T, MCI Worldcom, GST, Metronet,
11 Northpoint, SBC, and ELI). By contrast, this merger docket has neither the broad
12 participation by the industry nor the targeted focus on creating a thorough record on
13 wholesale service standards that has characterized the Carrier-to-Carrier Service Standard
14 Rulemaking. For these reasons, it is clear that the merger docket is not the appropriate
15 proceeding for the Commission to make decisions about wholesale service standards that
16 are already being considered in another docket that will affect the entire industry. Finally,
17 it must be remembered that the merger does not affect U S WEST's obligation under its
18 interconnection agreements and the Act. As a result, there is no need to specifically tie
19 compliance with these requirements to the merger itself.

1 A. ARE THERE ANY OTHER PROCEEDINGS BEING CONDUCTED BY THIS
2 COMMISSION THAT SPECIFICALLY ADDRESS SOME OF THE OTHER
3 CONCERNS RAISED BY THE INTERVENORS?

4 A. Yes. Collocation was a major concern raised by a number of intervenors³. The
5 Commission is currently conducting a rulemaking on Collocation in Docket UT-990582.
6 Additionally, the Commission is also in the process of determining costs and prices for
7 Collocation elements in the continuation of Docket UT-960369 et al. Similar to the
8 Carrier-to-Carrier Service Standard Rulemaking, the Collocation Rulemaking has also
9 had multiple rounds of comments and exploratory workshops and has had broad
10 participation from both the incumbent local exchange carriers (U S WEST, WITA, GTE,
11 and SPRINT) and the competitive local exchange companies (ATTI, JATO, Covad,
12 NEXTLINK, Rhythms, AT&T, MCI Worldcom, GST, Metronet, Northpoint, Bell
13 Atlantic, and ELI). Once again, the merger docket has neither the broad participation by
14 the industry nor the targeted focus on creating a thorough record on collocation that is
15 present in the Collocation Rulemaking. For these reasons, the merger docket is not the
16 appropriate proceeding for the Commission to make decisions on collocation that will
17 affect the entire industry nor does the merger itself affect U S WEST's continuing
18 collocation obligations.

¹ ³ AT&T, Ward, page 20; NEXTLINK, Knowles, pages 7-8; McLeod, Stewart, pages 9-10; Covad, Moya, page 12

1 **Q. ARE THERE ANY OTHER FORUMS THAT ARE CURRENTLY ADDRESSING**
2 **THE ISSUES RAISED BY THE INTERVENORS?**

3 **A.** Yes. The Regional Oversight Committee (ROC) is comprised of the 14 state public
4 utility commissions in U S WEST's operating territory. A major objective of the ROC is
5 the cooperative and efficient oversight of U S WEST's operations on behalf of
6 telecommunications customers while promoting consistency where feasible and
7 appropriate. In June 1999, 13 of the 14 ROC state commissions proposed a region-wide
8 collaborative test of U S WEST's OSSs. A Technical Advisory Group (TAG) consisting
9 of state commission staff, competitive local exchange carrier (CLEC) representatives,
10 U S WEST and other industry members was initiated in late September and has been
11 active in the initial planning of OSS testing. The TAG has collaboratively developed the
12 Testing and Scoping Principles that will drive the testing effort. The TAG is also
13 collaboratively developing the Performance Measurements of testing purposes and has an
14 extensive role in the development of the Master Test Plan (MTP). The results and
15 evaluation of the ROC Testing will be used by the 13 state jurisdictions as part of their
16 individual 271 proceedings and will become part of the overall record in each state.

17 **Q. HOW DOES THE ROC OSS TESTING EFFORT RELATE TO THE CONCERNS**
18 **OF THE INTERVENORS IN THIS CASE?**

19 **A.** The intervenors all argue that this merger docket is the proper forum in which to decide
20 these complex issues. However, it is clear that to ensure timely determinations that

1 include broad industry participation and thorough testing of U S WEST OSS, the ROC
2 process is a superior forum to the merger docket.

3 **Q. ISN'T A SECTION 271 PROCEEDING ANOTHER OPPORTUNITY TO**
4 **ADDRESS MANY OF THE ISSUES RAISED BY THE INTERVENORS?**

5 **A.** Yes. In a Section 271 proceeding U S WEST must satisfy a number of criteria associated
6 with access to its facilities by competitive providers in its provisioning of
7 interconnection, UNEs, and resold services. There are four principal components to
8 Section 271. First, U S WEST must satisfy "Track A," which requires, among other
9 things, that a CLEC is serving both residential and business customers principally over its
10 own facilities. Second, U S WEST must offer evidence that it satisfies the 14 point
11 competitive checklist. Satisfying the 14 point checklist involves providing proof that
12 U S WEST is providing nondiscriminatory access to a number of network elements,
13 including UNEs such as loops, switching, transport, etc., and other elements such as
14 poles, ducts conduits, rights-of-way, databases, and signaling. U S WEST must also
15 provide access to 911 services, directory assistance service, operator services, white page
16 listings, local dialing parity, reciprocal compensation, resale, number portability, and
17 interconnection. Third, U S WEST must demonstrate that its entry into the interLATA
18 long distance market is in the public interest. And fourth, U S WEST must show that it is
19 prepared to offer interLATA services through a separate subsidiary pursuant to Section
20 272 of the Act. Obviously, if the intervenors in this proceeding have concerns with

1 U S WEST's wholesale service provisioning, in addition to the other dockets I have
2 already noted, they would most certainly have the opportunity to raise their issues in a
3 Section 271 proceeding.

1 **Q. WHAT IS THE STATUS OF U S WEST'S SECTION 271 APPLICATIONS?**

2 **A.** U S WEST currently has Section 271 proceedings underway in Nebraska, Arizona, and
3 Colorado. On February 4, 2000, U S WEST filed with the Washington Utilities and
4 Transportation Commission to initiate a Section 271 proceeding in the state of
5 Washington. U S WEST subsequently announced its intention to complete its filing
6 process with the remaining states in its region. Additionally, as previously explained,
7 U S WEST is working with the ROC and the industry on a parallel, but linked, track to
8 satisfy OSS requirements in conjunction with offering access to UNEs and
9 interconnection.

10
11 **I. RESPONSES TO STAFF AND INTERVENOR ISSUES**
12

13 **A. HOW DO YOU RESPOND TO DR. BLACKMON'S RECOMMENDATION THAT**
14 **UNBUNDLED LOOPS BE DISCOUNTED UNTIL U S WEST DEPLOYS LINE**
15 **SHARING AND/OR DEPLOYS OSS INTERFACES TO COMPETITIVE PROVIDERS**
16 **TO FACILITATE THEIR PROVISIONING OF ADVANCED SERVICES?⁴**

17 **A.** Dr. Blackmon proposes a surrogate line sharing discount. He recommends that the
18 merged company be required to offer an unbundled loop at a substantial discount to its
19 advanced service competitors until it provides the same line-sharing capabilities that its

⁴ Testimony of Glenn Blackmon, pages 4-5

1 own advanced services enjoy. I believe that such a recommendation is both impractical
2 and unnecessary. It is impractical because U S WEST has no knowledge regarding a co-
3 provider's intended use (i.e., to provide advanced services or basic exchange services) of
4 an unbundled loop; making it impossible to determine whether a "line-sharing discount"
5 should apply. It is unnecessary because U S WEST is required to deploy line-sharing,
6 including development of the requisite OSS interfaces, in order to meet the FCC
7 requirements in its Line-Sharing Order⁵. The FCC Order requires, among other things,
8 that six months after its release, i.e., June 9, 2000, U S WEST must begin to deploy a new
9 line-sharing UNE that gives competitive providers access to the high frequency portion of
10 a U S WEST basic exchange customer's loop.

11 **Q. DO YOU HAVE ANY OTHER CONCERNS ABOUT DR. BLACKMON'S**
12 **RECOMMENDATION?**

13 **A.** Yes. The OSS associated with line-sharing will be costly to develop, and that cost must
14 be paid by the users of the OSS. The discount proposed by Dr. Blackmon is not cost or
15 policy based, but rather appears to be merely punitive.
16 It is not clear what Dr. Blackmon's recommendation is with regard to development and
17 deployment of OSS in conjunction with advanced services. Because he does not specify
18 a specific interface, it is difficult to give a response. However, U S WEST is already
19 required to develop access to its OSS in conjunction with any UNE and so Dr.

⁵ Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98.

1 Blackmon's recommendation appears to be superfluous.

2 **A. DO YOU HAVE ANY GENERAL OBSERVATIONS ABOUT THE**
3 **ALLEGATIONS MADE BY THE INTERVENORS REGARDING THE**
4 **PROVISIONING OF WHOLESALE SERVICES?**

5 **A.** Yes. The intervenors reference just about every wholesale issue that has arisen since the
6 passage of the Act, and request that the Commission condition the merger on a number of
7 initiatives that they claim will protect them from the alleged anti-competitive tendencies
8 of the merged entity. I have already pointed out that both the federal regulators and this
9 Commission have dealt with, or are in the process of dealing with, the issues that are
10 raised in orderly proceedings designed to develop factual records on these issues.

11 Although the intervenors would have us believe that the merger somehow changes the
12 current regulatory environment, it is not true. After the merger, the Commission will still
13 have the authority to address any anti-competitive behavior regarding the provisioning of
14 wholesale services to competitors. Furthermore, these wholesale customers/competitors
15 will continue to be able to arbitrate disputes, file complaints against perceived contract or
16 rule violations, or file lawsuits relating to alleged illegal behavior.

17 My final observation is that many of the allegations raised by the intervenors are not
18 supported by facts, nor are they specific to the state of Washington. The Commission
19 should reject such unsupported and irrelevant claims out of hand. Although I will not
20 address each and every unsupported or irrelevant allegations, I will respond to a number

of the more questionable claims.

Q. SOME OF THE INTERVENORS CLAIM⁶ THAT THE COMMISSION SHOULD IMPOSE CONDITIONS ON THE MERGER BECAUSE U S WEST HAS NOT COMPLIED WITH ITS SECTION 251/252 OBLIGATIONS AND THAT IT HAS REFUSED TO ALLOCATE THE NECESSARY RESOURCES TO THOSE OBLIGATIONS. HOW DO YOU RESPOND TO THESE ALLEGATIONS?

A. I strongly disagree. U S WEST has taken its responsibilities and obligations emanating from the Act very seriously and has devoted a tremendous amount of resources to comply with its requirements. Since passage of the Act, U S WEST has spent more than \$1 billion on providing CLECs with access to interconnection, UNEs, resale, number portability, and operational support systems (OSS). U S WEST has spent over \$160 million on OSS alone. U S WEST has also integrated interconnection and UNE development and provisioning into its Wholesale Division which employs over 2,352 employees for the purpose of providing carrier access. These employees have created effective processes and procedures for the ordering, provisioning, repair, and billing of all of these items. As a result, U S WEST has accomplished the following throughout its region:

- Provisioned over 450,000 interconnection trunks across its 14 states to permit interconnection with CLECs and other carriers, with over 102,000 of these in Washington;

⁶ Direct Testimony of Charles L. Ward, pages 12-24; Direct Testimony of Stacey Stewart, pages 3, 5, 20.

- 1 • Provisioned over 431,600 resold lines across the 14 states, with over 23,000 in
2 Washington;
- 3 • Implemented “1+ dialing parity” throughout U S WEST’s 14 states, including
4 Washington;
- 5 • Executed 811 interconnection and resale agreements, with 104 of these agreements in
6 Washington;
- 7 • Provisioned over 44,578 unbundled loops, with over 6,526 in Washington;
- 8 • Established processes and procedures, including a publicly available web site, to
9 provide notice of changes in the information necessary for the transmission and routing
10 of services using U S WEST’s network, as well as any other changes that would affect
11 interoperability;
- 12 • Completed 1,404 collocations in 365 central offices of the 1,285 central offices
13 throughout U S WEST. From these collocations, CLECs have access to over 79% of
14 U S WEST’s access lines. In Washington, 19 CLECs have 272 operational collocations
15 in 60 wire centers. From these collocations, CLECs have access to approximately 90%
16 of U S WEST’s Washington’s access lines;
- 17 • Made changes to its network to enable local number portability (LNP) - 87% of the
18 lines are LNP capable in the 14 state area and 90% in Washington are LNP capable; and
- 19 • Continually worked to enhance its OSS interfaces to permit CLECs non-discriminatory
20 access to those systems necessary to compete in the marketplace.

RESPONSE TO STACEY STEWART – MCLEODUSA

**A. DOES MR. STEWART PROVIDE ANY WASHINGTON SPECIFIC
ALLEGATIONS THAT WOULD BE RELEVANT FOR THIS COMMISSION TO
CONSIDER IN THIS MERGER PROCEEDING?**

A. No, he does not. In fact, at periodic points in his testimony, Mr. Stewart pauses long enough (page 8, lines 1-5, and page 19, lines 8-17) to acknowledge that McLeodUSA is just entering the market in Washington. He nonetheless intimates that the Commission can apply McLeodUSA's experience from other states to its "yet-to-be experienced" experience in Washington. Obviously, this makes it impossible for me to respond to Mr. Stewart's claims on the basis of McLeodUSA's actual experience in Washington. I must point out, however, that Mr. Stewart's allegations concerning McLeodUSA's actual experience have not gone un rebutted by U S WEST. Indeed, Mr. Stewart filed similar, if not identical, testimony in Iowa, a state in which McLeodUSA has conducted business for several years. In that docket, my counterpart, Mr. Max Phillips, rebutted Mr. Stewart's testimony. Although I would encourage the Commission to reject Mr. Stewart's testimony for lack of relevance in the state of Washington, in the alternative I attach Mr. Phillips' rebuttal (Exhibit MSR-1) to Mr. Stewart's testimony from the Iowa merger

1 docket. In the event the Commission decides to receive Stewart's testimony, it will have
2 an opportunity to review U S WEST's rebuttal to Mr. Stewart's claims.
3

RESPONSE TO CHARLES L. WARD – AT&T

ON PAGE 6 OF HIS TESTIMONY, MR. WARD STATES THAT “. . .THE APPLICANTS DO NOT MAKE PROMISES . . . ON CREATING A MORE FAVORABLE ENVIRONMENT FOR THE DEVELOPMENT OF COMPETITION; i.e., BY COMPLYING WITH THE ACT AND FCC ORDERS OR REDUCING ACCESS RATES.” HOW DO YOU RESPOND?

A. On page 5 of his testimony Mr. Ward acknowledges that AT&T received a number of discovery responses from the applicants which stated that the merged company would comply with all applicable laws and/or interconnection agreements after the consummation of the merger. U S WEST believes that “the Act and all applicable FCC orders” are synonymous with applicable laws. Therefore, the applicants have made such a commitment.

ON PAGES 13 AND 15 OF HIS TESTIMONY, MR. WARD CONTENDS THAT U S WEST DOES NOT PAY RECIPROCAL COMPENSATION FOR TRAFFIC THAT CLECS TERMINATE TO INTERNET SERVICE PROVIDERS (“ISPS”) IN VIOLATION OF CONTRACTUAL OBLIGATIONS, STATE COMMISSION POLICY, AND THE NONDISCRIMINATION REQUIREMENTS OF THE 1996 ACT AND STATE LAWS. HOW DO YOU RESPOND?

A. With respect to all Washington interconnection agreements that have reciprocal compensation provisions for the exchange of local traffic, U S WEST pays compensation

1 for ISP traffic in accordance with Commission and Federal Court rulings.

2 **Q. ON PAGE 14 OF HIS TESTIMONY, MR. WARD COMPLAINS THAT U S WEST**
3 **HAS “OBSTRUCTED AND DELAYED AT&T FROM OBTAINING**
4 **INTERCONNECTION AGREEMENTS”, CITING THE FACT THAT**
5 **UNRESOLVED ISSUES BETWEEN THE PARTIES HAVE GONE TO**
6 **ARBITRATION AND THAT U S WEST HAS APPEALED MANY DECISIONS**
7 **AS EVIDENCE OF THIS “OBSTRUCTIONIST” BEHAVIOR. HOW DO YOU**
8 **RESPOND?**

9 A. U S WEST has followed the statutory framework of the Act in negotiating 811 approved
10 interconnection agreements with Co-Providers throughout its region, including 104 in
11 Washington. When unable to reach final resolution, U S WEST has responded to the Co-
12 Providers' petitions for arbitration. While several negotiations have resulted in
13 arbitrations, the overwhelming majority of the cases, 92 % in Washington, have resulted
14 in negotiated agreements. This can hardly be termed as delaying or obstructionist
15 behavior. For the record, it should also be noted that AT&T has appealed about the same
16 number of interconnection agreements as U S WEST.

17 **Q. ALSO ON PAGE 14, MR. WARD CLAIMS THAT U S WEST HAS DELAYED**
18 **NEGOTIATING MEETINGS AND HAS NOT HAD REPRESENTATIVES WITH**
19 **AUTHORITY TO SPEAK ON BEHALF OF THE COMPANY. IS THIS TRUE?**

20 A. No, it is not true. In the current round of negotiations, it has been AT&T that has often

1 cancelled meetings and failed to have representatives present that could address the issues
2 at hand. U S WEST has offered to meet with AT&T as often as possible in order to
3 negotiate a new agreement.

4 **Q. ON PAGE 15 OF HIS TESTIMONY, MR. WARD STATES THAT U S WEST HAS**
5 **REFUSED TO RECOGNIZE A CARRIER'S SECTION 252(i) RIGHTS TO PICK**
6 **AND CHOOSE. IS THIS CORRECT?**

7 **A.** No. In Washington U S WEST has worked cooperatively with the Commission and the
8 industry to develop guiding principles with regard to Section 252(i) requests in the
9 context of the Commission's 252(i) Rulemaking in Docket UT-990391. Furthermore,
10 U S WEST supports and abides by the Commission's recently adopted Interpretive and
11 Policy Statement stemming from the rulemaking. This does not mean that there will be
12 no disputes with regard to Section 252(i) requests. However, the guiding principles
13 should reduce greatly reduce the contention between the parties and result in speedy
14 resolution in remaining areas of dispute. The relationship of U S WEST's involvement in
15 Section 252(i) dispute resolution is a far cry from Mr. Ward's shrill representation in his
16 testimony.

17 **Q. ON PAGE 16 OF HIS TESTIMONY, MR. WARD STATES THAT U S WEST**
18 **RENEGED ON AN UNDERSTANDING TO PURSUE A CONSOLIDATED 14-**
19 **STATE NEGOTIATION AND ARBITRATION FOR THE NEXT ROUND OF**
20 **INTERCONNECTION AGREEMENTS WITH AT&T. IS THIS TRUE?**

1 A. No. There was no such understanding; there were simply discussions which U S WEST
2 reasonably believed would be treated as confidential. Although U S WEST does not
3 believe that a 14-state arbitration will work, U S WEST has agreed to negotiating a 14-
4 state agreement, U S WEST also agreed that once the negotiations are more complete, it
5 would explore alternatives, such as mediation to conclude the agreement. Contrary to
6 Mr. Ward's contention, AT&T is the company that has now withdrawn from talks
7 regarding a 14-state negotiated agreement. Of course there is no legal requirement that
8 either party enter into a multi-state agreement. The 1996 Act statutory framework calls
9 for arbitrations by the individual states.

10 Q. **AT PAGE 20 OF HIS TESTIMONY, MR. WARD ASSERTS THAT U S WEST**
11 **REFUSES TO ALLOW CLECs TO COLLOCATE REMOTE SWITCHING**
12 **UNITS (RSUs). IS THIS TRUE?**

13 A. No. In March 1999, the FCC issued its 706 Order which dealt with, among other things,
14 collocation. That order, which became effective on June 1, 1999, states that ILECs, like
15 U S WEST, must "permit collocation of all equipment that is necessary for
16 interconnection or access to unbundled network elements" thereby excepting "equipment
17 used exclusively for switching or for enhanced services."⁷
18 Consistent with the FCC rules, U S WEST allows CLECs to collocate equipment that is
19 necessary for interconnection or access to unbundled network elements (UNEs),

⁷ Advanced Services Order at ¶¶28 & 30.

1 regardless of whether such equipment includes a switching functionality, provides
2 enhanced services capabilities, or offers other functionality. In accordance with the
3 FCC's express limitation,⁸ however, U S WEST does not permit CLECs to collocate
4 equipment that is not necessary for either access to UNEs or for interconnection, such as
5 equipment used exclusively for switching or for enhanced services.

6 AT&T's testimony does not accurately reflect U S WEST's current policy. Instead,
7 AT&T selectively focussed a policy that preceded a March 31, 1999 decision that
8 clarified the issue for the benefit of all parties.

9 **Q. ON PAGE 27 OF HIS TESTIMONY, MR. WARD STATES THAT U S WEST**
10 **MUST PROVIDE CLECS WITH ACCESS TO "DSL FACILITIES, MULTI-**
11 **HOST DSLAMS AND FULL ACCESS TO U S WEST'S EXISTING LOOP**
12 **MAKE-UP DATABASES." HOW DO YOU RESPOND?**

13 **A.** The basis for AT&T's assertion is unclear. AT&T does not cite any law, FCC decision or
14 Commission Order. AT&T does not even set forth any policy rationale for its position.
15 The reason for the lack of cited support for AT&T's position may be that the FCC's
16 recent UNE Remand Order runs contrary in almost every respect to AT&T's assertions.
17 As an initial matter, it is unclear what AT&T means by "DSL Facilities." Since
18 U S WEST has offered access to and provisioned digitally capable loops for many
19 months, it assumes Mr. Ward refers to packet switching. However, the FCC has found

⁸ See the FCC's Order, CC Docket No. 98-147, ¶ 30.

1 specifically that ILECs such as U S WEST need not unbundle packet switching or

2 DSLAMs:

3 We decline at this time to unbundle the packet switching functionality, except in
4 limited circumstances.⁹ . . .

5
6 . . . We find that with today's technology, packetizing is an integral function of the
7 DSLAM. Accordingly, we include the DSLAM functionality, with the routing
8 and addressing functions of the packet switches, in our functional definition of
9 packet switching¹⁰

10
11 **A. IS THERE ANY ASPECT OF AT&T'S ASSERTION THAT HAS MERIT?**

12 A. The only aspect of AT&T's assertion that has any merit is U S WEST's obligation to
13 provide "loop qualification" information to CLECs through its OSSs.¹¹ Even on this item,
14 however, AT&T's criticisms are ill founded. As I have already noted, the FCC provided
15 that ILECs will have 120 days from publication of the Order in the Federal Register to
16 provide access to this item.¹² The Order was published on January 18, 2000; therefore,
17 U S WEST has until May 17, 2000, to provide this capability. Despite that, even before
18 the UNE Remand Order was released, U S WEST had modified its OSSs to enable
19 CLECs to obtain underlying information about the loop during the pre-order process. In
20 late October 1999, U S WEST released OSS version 4.2, which provides competitors
21 with a "loop qualifying tool" that provides CLECs with the pre-order information
22 necessary to anticipate if conditioning is required and/or to determine if a prospective

1 ⁹ *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC
2 Docket No. 96-98, ¶ 306 (released Nov. 5, 1999) (hereinafter "*UNE Remand Order*").

1 ¹⁰ *UNE Remand Order* at ¶ 304.

1 ¹¹ 47 CFR 51.319(g).

1 ¹² *UNE Remand Order* at ¶ 525.

1 loop might or might not support their xDSL service.¹³ To determine if a prospective
2 customer has a compatible loop, the competitor submits a loop qualification pre-order
3 transaction via IMA/EDI by entering the prospective end user's telephone number or
4 street address. The IMA/EDI loop qualification tool provides competitors with the
5 following raw, non-manipulated cable make-up data: (a) loop length; (b) bridge tap
6 length; (c) insertion loss for non-loaded loops (in decibels) calculated at 196-kilohertz
7 frequency with 135-ohm termination; (d) circuit type: copper or pair gain; (e) number of
8 wires; and (f) load coil type. Thus, U S WEST is well ahead of schedule on deployment
9 of this OSS capability. Again, AT&T's testimony does not reflect U S WEST's current
10 capabilities.

11 **Q. AT&T RECOMMENDS A NUMBER OF MERGER CONDITIONS**
12 **SURROUNDING OSS CAPABILITIES. ARE THESE PROPOSALS WELL**
13 **FOUNDED?**

14 **A.** No. At numerous points throughout his testimony, Mr. Ward asserts that U S WEST's
15 OSS and provisioning capabilities are inadequate and recommends that the Commission
16 place several conditions on the merger. For example:

- 17 1. Mr. Ward states (at page 19) that U S WEST's OSS capability is inferior
18 to the systems it provides to its own retail operations.
- 19 2. Mr. Ward recommends (at page 25) that U S WEST have an independent

¹³ The initial loop pre-qualification tool was labeled "ADSL"; however, this is a misnomer. From the very beginning,
it has been available for all types of DSL.

1 party test its OSS capability for interconnection, UNEs and resale.

2 3. As a result, Mr. Ward recommends (at pages 47 through 51) that the
3 Commission create a “comprehensive set of [wholesale performance]
4 measurements and penalties” and “benchmarks” as a condition of the
5 merger.

6 AT&T is raising these issues in the wrong docket: these issues belong in section 271
7 proceedings. Furthermore, as Mr. Ward knows, U S WEST is already undergoing
8 thorough third-party reviews of its OSSs as a part of satisfying section 271 throughout the
9 region. Two different testing plans are underway.

10 U S WEST has participated in numerous workshops in Arizona for the specific purpose
11 of determining what to test, setting performance benchmarks, and establishing
12 provisioning expectations. The issues raised by Ward are already a part of the OSS test.
13 Similarly, while not as far along, U S WEST is engaged in similar efforts with the
14 Regional Oversight Committee (ROC). The Commission is involved in this process, and
15 Chairwoman Showalter is on a five-member ROC subcommittee overseeing that test.
16 Thus, it is simply counterproductive to duplicate effort and consider these incredibly
17 complex and time-consuming issues in this merger docket. The entire purpose of the
18 ROC plan is to ensure that both U S WEST and the ROC states only need to confront
19 these difficult issues once.

20 **Q. ON PAGE 26 OF HIS TESTIMONY MR. WARD DISCUSSES COLLOCATION.**
21 **IS U S WEST COMPLYING WITH ALL EFFECTIVE LEGAL**

1 REQUIREMENTS FOR COLLOCATION?

2 **A.** Yes, U S WEST is in compliance with all effective legal requirements for collocation.
3 U S WEST provides for collocation of any type of equipment used or useful for
4 interconnection or access to UNEs. In Washington, collocation is provided in 60 wire
5 centers providing access to approximately 90% of Washington's access lines. U S WEST
6 also began providing CLECs with access to cageless collocation prior to the FCC's
7 requirement that it do so.

1 **Q. ARE MANY OF THE REQUIREMENTS THAT MR. WARD REFERS TO IN HIS**
2 **TESTIMONY ALSO REQUIREMENTS OF FCC ORDERS?**

3 **A.** Yes. As I explained earlier in my testimony, Mr. Ward, along with many of the other
4 intervenors, raise issues that have already been resolved by the FCC. For example, most
5 of the collocation requirements listed by Mr. Ward on pages 26 and 27 of his testimony
6 are basically the requirements that are contained in the FCC's 706 order on collocation.
7 Therefore, it is unnecessary for the Commission to take any further action on these points.
8 U S WEST is already in compliance with the FCC Order.

9 AT&T also proposes conditions based on other FCC Orders. Examples of these FCC
10 dockets include the FCC's rules and decisions on Pick-and-Choose, the pending FCC
11 decision on reciprocal compensation for ISP traffic, and the FCC's UNE Remand Order.
12 U S WEST will also be in compliance with these orders as they become legally binding
13 and effective.

14 **Q. MR. WARD'S TESTIMONY CONTAINS A LONG DISCUSSION OF**
15 **WHOLESALE SERVICE QUALITY ISSUES AND WHAT HE PERCEIVES ARE**
16 **U S WEST'S SERVICE QUALITY FAILINGS, AND RECOMMENDS THAT**
17 **THE COMMISSION IMPOSE CONDITIONS ON THE MERGER. WHAT IS**
18 **YOUR GENERAL RESPONSE?**

19 **A.** As I have stated previously, this Commission is already addressing wholesale service
20 quality issues in a rulemaking docket that includes much broader industry representation

1 than this merger docket and much higher quality evidence than the conclusory allegations
2 and anecdotal information offered in the testimony of Mr. Ward. Additionally, the ROC
3 is examining wholesale service quality measurements on regional basis.

4 Ultimately, Mr. Ward's conclusory and speculative allegations defy common sense. The
5 Commission already regulates U S WEST on service quality issues. Post-merger, the
6 Commission will continue to regulate these issues, and will oversee the exact same
7 company - U S WEST Communications.

8 Mr. Ward also fails to acknowledge that U S WEST must achieve a certain level of
9 wholesale service quality in order to obtain section 271 relief. While Mr. Ward states
10 that the "carrot" of 271 is not enough, this allegation also defies common sense. As Mr.
11 Ward recognizes, one of the primary assumptions made in developing the merger
12 synergies is U S WEST's ability to obtain 271 relief in all 14 states by December 31,
13 2001. The only way to do this is to provide quality wholesale service.

14 **Q. THROUGHOUT HIS TESTIMONY, MR. WARD CITES TO THE SO-CALLED**
15 **"ACCESS COMPLAINTS" IT FILED IN FIVE STATES. DO YOU BELIEVE**
16 **THIS IS PERTINENT TO THIS MERGER DOCKET?**

17 **A.** Absolutely not. This appears to be another example of AT&T's apparent strategy to
18 introduce irrelevant and inflammatory allegations against U S WEST in this docket.
19 These complaints, which are simply allegations and not facts, should be pursued in
20 appropriate regulatory or court venues and not in this merger docket. U S WEST firmly

1 believes it is acting in the appropriate manner, and is confident it will prevail in these
2 complaints in the appropriate jurisdictions. In fact, the hearings have already taken place
3 in Washington and the issues will be decided in Docket UT-991292 (the AT&T
4 Complaint proceeding).

5 **Q. WHAT IS YOUR RESPONSE TO MR. WARD'S ALLEGATIONS AT PAGES 41**
6 **AND 42 OF "DISCRIMINATORY" CONDUCT IN PROVIDING SERVICE TO**
7 **WHOLESALE CUSTOMERS?**

8 **A.** Again, it is difficult to respond to what are clearly unsubstantiated allegations. AT&T
9 provides absolutely no factual support for these allegations. U S WEST is committed to
10 complying with any and all applicable nondiscrimination requirements.

11 **Q. MR. WARD CONCLUDES HIS DISCUSSION ON SERVICE QUALITY WITH A**
12 **RECOMMENDATION THAT THE COMMISSION IMPOSE SERVICE**
13 **QUALITY CONDITIONS ON U S WEST AND QWEST AS PART OF ITS**
14 **APPROVAL OF THE MERGER. HE ADVOCATES THAT THE COMMISSION**
15 **SHOULD REQUIRE: 1) ILLINOIS SBC/AMERITECH CARRIER-TO-CARRIER**
16 **SERVICE STANDARDS AND 2) THAT FAILURE TO MEET THE STANDARDS**
17 **RESULT IN SELF-EXECUTING PENALTIES OR REMEDIES REQUIRING THE**
18 **MERGED COMPANY TO MAKE PAYMENTS TO CLECS OR AFFECTED**
19 **CUSTOMERS. DO YOU AGREE SERVICE QUALITY CONDITIONS ARE**
20 **WARRANTED?**

1 A. Certainly not, particularly in the context of this merger proceeding. As I have previously
2 stated, the proper forum for addressing wholesale service quality standards is in a
3 proceeding designed to hear the interests of all industry participants and not just the self-
4 serving recommendations of a party that has everything to gain by obstructing this
5 merger.

6 **RESPONSE TO TERRY MOYA – COVAD COMMUNICATIONS**

7 A. **ON PAGE 9 OF HIS TESTIMONY, MR. MOYA PRESENTS A TABLE WHICH**
8 **PROVIDES THE PERCENTAGE OF TOTAL SERVICE RESALE LINES TO**
9 **TOTAL SWITCHED LINES FOR FIVE RBOCS. BASED ON A COMPARISON**
10 **OF U S WEST’S PERCENTAGE TO THAT OF THE OTHER COMPANIES, MR.**
11 **MOYA CONTENDS THAT THE EXTENT OF [COMPETITIVE] ENTRY IN**
12 **U S WEST STATES LAGS FAR BEHIND ENTRY INTO OTHER RBOC**
13 **REGIONS. IS MR. MOYA’S ANALYSIS A FAIR COMPARISON?**

14 A. No, it is not. An analysis of the document upon which Mr. Moya bases his table¹⁴ reveals
15 that there is another column to the right of the Total Service Resale column titled Other
16 Resale. Mr. Moya conveniently leaves this column out of his analysis. The Other Resale
17 column accounts for resold Centrex and Centrex-like services. For the other companies
18 to which Mr. Moya compares U S WEST there is very little demand in the Other Resale
19 column because the other companies either do not offer such services or have effectively

1 ¹⁴ Industry Analysis Division, Common Carrier Bureau, FCC: *Local competition: 1999 Table 3.2* (Revised).

1 limited resale of such service. For U S WEST, however, this column contains an
2 additional 259,000 resale demand units that, when added to the 169,000 from the Total
3 Resale column, brings U S WEST total percentage to 2.6%, a number that is higher than
4 any of the other companies listed by Mr. Moya. Earlier in the same document¹⁵ at page
5 22 the following explanation of this phenomenon is offered:

6 The company-specific summaries at the end of Table 3.1 indicate that non-TSR
7 resale can be a significant factor in CLEC competition, but appears to be so only
8 in areas served by U S WEST and, to a lesser extent, Ameritech. The three states
9 (Iowa, South Dakota, and North Dakota) [all U S WEST states] with the highest
10 resale percentages – and, indeed, the highest percentages of combined CLEC use
11 of resold ILEC services and UNE loops – achieve those rankings because of high
12 reported percentages of non-TSR resale. The market entry strategy of
13 McLeodUSA, in particular, has relied on resold U S WEST Centrex service,
14 although the company is now increasing its reliance on owned facilities.
15

16 So, ultimately the data used by Mr. Moya regarding resale supports exactly the opposite
17 contention that he tries to make; U S WEST actually leads the other RBOC regions on
18 market entry with respect to resold services.

19 **A. DO YOU HAVE ANY OTHER CONCERNS WITH THE DATA USED BY MR.**
20 **MOYA ON PAGES 9 AND 10 OF HIS TESTIMONY?**

21 A. Yes. The data is quite old considering the dynamic nature of the market entry that is
22 occurring. For example, earlier in my testimony I reference that, to date, U S WEST has
23 provided 44,578 unbundled loops region-wide, with over 6,526 in Washington. This
24 compares to the 8,000 loops listed in Mr. Moya's table on page 10 of his testimony. I would

¹⁵ *Ibid.*

1 suggest that a 5-fold growth in provisioning of unbundled loops is not indicative of a
2 company that is consciously creating entry barriers.

1 **A. ON PAGE 13 OF HIS TESTIMONY MR. MOYA DISCUSSES HOW HE BELIEVES**
2 **COLLOCATION TO BE A BARRIER TO ENTRY. WHAT IS YOUR RESPONSE?**

3 **A.** As I have previously testified, the proper forum to raise issues about collocation is the
4 Collocation Rulemaking and/or the Generic UNE cost and pricing docket. To date, there
5 have been thousands of pages of testimony and cost studies filed in the Generic Docket and
6 the Collocation Rulemaking. The merger docket is simply not structured to allow the
7 Commission the opportunity to review the necessary record to make informed decisions with
8 respect to something as complex as collocation.

9 **Q. ON PAGES 13-14 OF HIS TESTIMONY, MR. MOYA COMPLAINS THAT**
10 **U S WEST DOES NOT PROVIDE CLECS WITH ACCESS TO REMOTE**
11 **TERMINALS AND/OR SUB-LOOP ELEMENTS. ARE THESE STANDARD**
12 **UNES THAT U S WEST IS REQUIRED TO OFFER TODAY?**

13 **A.** No. Mr. Moya knows, and even admits, that what he is requesting was only recently
14 ordered by the FCC in the UNE Remand Order¹⁶. U S WEST will comply with all
15 aspects of this Order by its effective date. Again, this is not an issue that is relevant to
16 this merger docket and it is already in the process of being resolved.

¹⁶ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 99-238.

1 **A. IN HIS TESTIMONY ON PAGE 18, MR. MOYA REFERS TO A CNET**
2 **NEWS.COM ARTICLE IN WHICH HE CONTENDS THAT JOE ZELL, THE**
3 **PRESIDENT OF U S WEST'S ENTERPRISE DIVISION, STATES THAT**
4 **U S WEST DOESN'T HAVE TO SELL ACCESS TO [FIBER SERVED] LINES**
5 **TO COMPETITORS LIKE COVAD COMMUNICATIONS, RHYTHMS OR**
6 **OTHER TELEPHONE COMPANIES, AS IT DOES WITH ALL OF ITS OTHER**
7 **TELEPHONE SERVICES. BASED ON HIS UNDERSTANDING OF MR. ZELL'S**
8 **STATEMENT, MR. MOYA THEN DEDUCES THAT THE COMBINED ENTITY**
9 **[U S WEST AND QWEST] SEEMS MOST LIKELY TO MAINTAIN OR EVEN**
10 **RAISE WHAT THEY CONTEND ARE THE EXISTING BARRIERS TO**
11 **COMPETITIVE ENTRY. DO YOU AGREE WITH MR. MOYA'S**
12 **CHARACTERIZATION OF THE ARTICLE AND SUBSEQUENT**
13 **CONCLUSIONS?**

14 **A.** No, I do not. First, it should be noted that the service to which Mr. Zell refers is not
15 currently offered in Washington. In fact, the article refers to a trial of VDSL service that
16 was conducted in Phoenix. Second, similar to other portions of his testimony, Mr. Moya
17 does not provide a complete story. The portion of the article to which Mr. Moya refers is
18 as follows:

19 The VDSL service has one other advantage to other phone-line technologies, Zell
20 noted. Because it mirrors cable TV in many ways, U S WEST must get licenses
21 to operate from local authorities, as cable companies do. But this means that the
22 telephone company doesn't have to sell access to the lines to competitors like

1 Covad Communications, Rhythms NetConnections or other telephone companies,
2 as it does with its other telephone services.
3

4 Obviously, Mr. Zell was referring to the fact that VDSL service is treated like a cable service
5 for purposes of regulation and would not be subject to the same regulatory conditions as
6 other telephony related products. If Covad believes that this position is legally wrong, as Mr.
7 Moya maintains, then Covad knows the proper forum in which to file a complaint containing
8 these allegations. The point here, however, is that this is not an issue that is relevant to this
9 merger proceeding.

10 RESPONSE TO REX KNOWLES - NEXTLINK

11 A. IN HIS TESTIMONY, PAGE 3, LINE 14, MR. KNOWLES CONTENDS THAT
12 U S WEST HAS STRONG ECONOMIC INCENTIVE TO MAINTAIN ITS CURRENT
13 MONOPOLY MARKET SHARE BY NOT PROVIDING NECESSARY FACILITIES
14 AND SERVICES TO NEXTLINK AND OTHER COMPETING CARRIERS IN A
15 TIMELY AND EFFICIENT MANNER. DO YOU AGREE?

16 A. Absolutely not. I doubt very much that the Qwest merger would have even been
17 considered, absent the possibility that U S WEST would be able to market a full
18 compliment of services, including interLATA long distance. Furthermore, even without
19 the Qwest merger, U S WEST's long term viability is contingent upon its ability to offer
20 comparable services in the marketplace. It is not credible to suggest that U S WEST
21 would consciously restrict competitive entry, bringing on all manner of complaints and
22 lawsuits, and jeopardizing its chances of achieving market freedoms which it will

1 ultimately need to effectively compete.

2 **A. ON PAGES 5 AND 6 OF MR. KNOWLES' TESTIMONY AND PAGES 14**
3 **THROUGH 16 OF MR. MOYA'S TESTIMONY, CLAIMS ARE MADE THAT**
4 **U S WEST IS NOT PROVISIONING UNES (SPECIFICALLY UNBUNDLED**
5 **LOOPS) IN A TIMELY MANNER AND THAT THERE IS EXCESSIVE**
6 **MAINTENANCE AND REPAIR PROBLEMS WITH THE ELEMENTS THAT**
7 **HAVE BEEN PROVISIONED. HOW DO YOU RESPOND?**

8 **A.** This merger docket is not the appropriate forum for the Commission to make
9 determinations on what appears to constitute informal service complaints. Having
10 worked through a number of formal and informal complaint proceedings, I know that
11 there are two sides to every story and that the resolution process requires that an adequate
12 record be established to allow the Commission the ability to make informed decisions.
13 Although I would not encourage the filing of complaints by parties prior to negotiations
14 and/or mediation, the fact remains that there exist specific avenues for complaint
15 resolutions in this state. For example, WAC 480-09-530 provides for an expedited
16 interconnection agreement enforcement process for those situations where a party
17 believes that terms of its interconnection agreement have been violated by another party.
18 Additionally, parties may bring a formal complaint action against another party in
19 accordance with RCW 80.04.110. Both this rule and this statute were specifically drafted
20 to develop a process that would develop an adequate record for the Commission to make

1 informed decisions on the important and often factually complex matters associated with
2 complaints between parties. It is therefore entirely inappropriate that Covad and
3 NEXTLINK attempt to hold this merger docket hostage to such determinations on the
4 basis of anecdotal evidence.

5 **A. ON PAGE 7 OF HIS TESTIMONY, MR. KNOWLES COMPLAINS ABOUT THE**
6 **CHARGES FOR COLLOCATION AND MAINTAINS THAT A U S WEST**
7 **RESPONSE TO AN AT&T DISCOVERY REQUEST THAT IT “DOES NOT**
8 **DELAY ORDERS ON POWER” IS DEMONSTRABLY UNTRUE. HOW DO**
9 **YOU RESPOND?**

10 **A.** The rates charged by U S WEST for collocation are in accordance with the
11 interconnection agreement between U S WEST and NEXTLINK that NEXTLINK
12 voluntarily opted into. This merger docket is not the place to seek unilateral revision of
13 that contract. Furthermore, Mr. Knowles is well aware that collocation costs and rates are
14 currently being decided by this Commission in the continuation of the Generic Docket.
15 Mr. Knowles’ contention that U S WEST does delay collocation implementation due to
16 power considerations is correct. U S WEST has modified its AT&T discovery response
17 01-038S1 to correctly reflect this policy and apologizes to the parties for any confusion
18 that the prior response may have caused.

1 A. WHAT IS YOUR UNDERSTANDING OF THE ISSUE RAISED BY MR.
2 KNOWLES ON PAGES 9 AND 10 OF HIS TESTIMONY REGARDING THE
3 ALLEGED REQUIREMENT THAT NEXTLINK ROUTE ITS ISP TRAFFIC
4 THROUGH U S WEST'S ACCESS TANDEM?

5 A. I understand that the parties are seeking resolution of the issue in formal dispute
6 resolution and that, at least at this point in time, the issue is limited to the state of
7 Arizona. In any event, it is obviously not a matter that is appropriately brought before
8 this Commission in the context of this merger docket.

9 **RESPONSE TO JO GENTRY – RHYTHMS LINKS**

10 A. ON PAGE 6 OF HER TESTIMONY, LINES 11-14, MS. GENTRY STATES THAT
11 APPROPRIATE AREAS OF INQUIRY FOR THE COMMISSION IN THIS
12 MERGER DOCKET INCLUDE PROVISIONING OF LINE SHARING, ACCESS TO
13 LOOP QUALIFICATION INFORMATION, ACCESS TO REMOTE TERMINALS,
14 AND ACCESS TO COLLOCATION AND TRANSPORT ON A TIMELY,
15 NONDISCRIMINATORY AND REASONABLE COST BASIS. DO YOU AGREE?

16 A. No. Ms. Gentry and several other intervenors raise these issues as if they are subjects of
17 debate between the parties. The fact is that these are very real requirements of recent FCC
18 Orders. For example, U S WEST is currently in the process of designing and implementing
19 line sharing as a UNE in conjunction the FCC's line sharing order. The FCC has given the
20 ILECs six months to develop and deploy the product, including the development of the

1 necessary OSS to support the product. U S WEST fully expects to meet all of its obligations
2 emanating from the Order. Line sharing is a complex and time-consuming issue upon which
3 the FCC received thousands of pages of comments from a broad representation of the
4 telecom industry before reaching its decision. Likewise, access to loop qualification and
5 remote terminals are also requirements of FCC Orders which U S WEST is in the process
6 of implementing. Previously in my testimony, responding to Mr. Ward, I provided a detailed
7 response about U S WEST's efforts to provide loop information to competitors, both
8 historically and prospectively. Ultimately, it will probably be this Commission's
9 responsibility to establish the costs and prices for line sharing, loop qualification database
10 access, remote terminal access, and other new UNEs, however, these are certainly not a valid
11 areas of inquiry for this merger docket.

12 **A. IN REGARD TO LINE-SHARING, ARE YOU AWARE OF WHAT U S WEST'S**
13 **EFFORTS HAVE BEEN WITH RESPECT TO THE DEPLOYMENT OF LINE-**
14 **SHARING ACROSS ITS REGION?**

15 **A.** Yes. Prior to the FCC's Order requiring line-sharing, U S WEST was required by the
16 Minnesota Commission to engage in a trial with a number of interested CLECs. At the
17 conclusion of the trial, U S WEST and the participating CLECs reached a stipulated
18 agreement regarding the technical parameters and the prioritization for deployment of line-
19 sharing in Minnesota.

20 After the FCC Order, U S WEST continued meeting with interested CLECs regarding the

1 technical parameters and the CLEC's preferences regarding the prioritization for deployment
2 of the service across U S WEST's region. Interestingly, U S WEST's proactive and
3 collaborative efforts regarding the deployment of line-share are not cited by Ms. Gentry.

4
5 **U S WEST'S RESPONSE TO MERGER CONDITIONS**

6
7 **A. WHAT IS THE PURPOSE OF THIS PORTION OF YOUR TESTIMONY?**

8 **A.** On pages 16 and 17 of his testimony, Rex Knowles states that there are 8 conditions,
9 developed by NEXTLINK, ATG, McLeod, Covad, and Rhythms, that would increase the
10 possibility that the proposed merger would be consistent with the public interest. Mr.
11 Knowles then provides a summary of the 8 conditions on pages 17 through 20 of his
12 testimony. The purpose of this portion of my testimony is to provide U S WEST's
13 response to these 8 conditions.

14 **A. PLEASE RESPOND TO CLEC CONDITIONS 1 AND 2 WHICH WOULD**
15 **REQUIRE THE APPLICANTS TO COMMIT TO SPECIFIC SERVICE**
16 **STANDARDS, PERFORMANCE REPORTING, INVESTMENT TIED TO**
17 **NETWORK CAPACITY LEVELS AND REMEDIES FOR**
18 **NONPERFORMANCE?**

19 **A.** First, U S WEST would point out that these conditions represent nothing more than a
20 short –cut attempt by the CLECs to achieve significant modifications to their

1 interconnection agreements without negotiations or arbitrations. For example, Covad's
2 interconnection agreement currently requires firm order confirmations (FOC) in 48 hours,
3 not the 24 hour requirements contained in Condition 1 (a)(i). It should also be pointed
4 out that many of these CLECs agreements were voluntarily negotiated or opted into.
5 Additionally, U S WEST believes that these conditions effectively bypass the currently
6 active Carrier-to-Carrier Service Standards Rulemaking that was initiated to develop rules
7 that would provide for a consistent set of service standards upon which to measure
8 various aspects of an ILEC's UNE, interconnection and resale provisioning.
9 More disturbing is the manner in which the conditions are presented. Little or no
10 substantive evidence is offered in support of the provisioning conditions, service
11 intervals, network capacity levels, or remedial penalties. Although U S WEST will
12 discuss the Commission's authority to order prospective penalties in its brief, any
13 penalties that the Commission ultimately assesses should be based on a factual record that
14 substantiates violations. No such record is present in this proceeding. Consequently, the
15 Commission should dismiss these conditions as unsubstantiated, unnecessary, and in
16 direct conflict with the negotiation process, negotiated agreements, and the Commission's
17 Carrier-to-Carrier Service Standard Rulemaking.

18 **A. PLEASE RESPOND TO CONDITION 3 THAT REQUIRES THE APPLICANTS**
19 **TO IMPROVE ACCESS TO DATABASES AND NETWORK INFORMATION.**

20 **A.** U S WEST is already providing a great deal of information about the loop during the pre-

1 order process. The intervenors will receive the information to which they are entitled as
2 U S WEST meets the compliance deadlines of the recent FCC orders. Additionally,
3 U S WEST will also comply with the requirement that it develop the necessary OSS and
4 OSS access in conjunction with the FCC's Line Sharing Order. The Commission should
5 dismiss this condition on the basis that the U S WEST is in compliance with its
6 interconnection agreements and all applicable FCC requirements regarding access to the
7 information sought by the CLECs

8 **Q. THE INTERVENORS' THIRD PROPOSED CONDITION ALSO CONTAINS**
9 **THE REQUIREMENT FOR A DISCOUNT OF 25% ON ALL RECURRING AND**
10 **NONRECURRING LOOP CHARGES UNTIL "MANUAL PROCESS . . . ARE**
11 **AUTOMATED". HOW DO YOU RESPOND TO THIS SUGGESTION?**

12 A. On its face, this requirement is unclear as to exactly what is meant by "manual
13 processes", and unsubstantiated as to the need or basis of such a requirement. U S WEST
14 is already providing CLECs with required information or is in the process of developing
15 the necessary access to loop information as required by recent FCC decisions.

16 **A. PLEASE RESPOND TO CONDITION 4 THAT REQUIRES THE APPLICANTS**
17 **TO ENSURE THAT THE ARCHITECTURE OF ANY FUTURE NETWORK**
18 **BUILD-OUTS PERMITS INTERCONNECTION BY CLECS.**

19 A. U S WEST currently considers CLEC-forecasted demand in the planning and deployment
20 of its network. To the extent that part (a) to this conditions pertains to collocation,

1 U S WEST would maintain that 47 C.F.R. § 51.323 (f)(3) already requires that, “when
2 planning renovations of existing facilities or constructing or leasing new facilities, an
3 incumbent LEC shall take in to account projected demand for collocation of equipment.”
4
5

6 Regarding part (b), U S WEST would respond that it will be virtually impossible to
7 deploy IDLC equipment that is compatible with every co-providers’ equipment.
8 Notwithstanding this issue, given the requirement to provide unbundled loops, it in
9 U S WEST’s economic best interests to deploy that type of plant that minimizes
10 provisioning costs.

11 **Q. PLEASE RESPOND TO CONDITION 5 THAT REQUIRES U S WEST TO**
12 **OFFER A REGION-WIDE MOST FAVORED NATION (MFN) CLAUSE IN ITS**
13 **CONTRACTS.**

14 **A.** U S WEST considers this to be a legal issue that can be addressed on the brief. The Act
15 contemplates that arbitrations will occur on a state by state basis. Obviously, a region-
16 wide MFN runs counter to this intent and ultimately usurps that authority of this
17 Commission. Consequently, U S WEST encourages the Commission to dismiss this
18 condition.

19 **A. PLEASE RESPOND TO CONDITION 6 REGARDING UNE COMBINATIONS.**

20 **A.** U S WEST will comply with all applicable FCC Orders and court rulings with regard to

1 UNE combinations. The FCC is currently awaiting legal resolution to several issues
2 regarding UNE combinations. The CLECs offer absolutely no substantiation or citation
3 to FCC or legal requirements for this condition. Further, they do not, and cannot,
4 demonstrate that U S WEST has failed to comply with any current FCC UNE
5 combination requirements. The Commission should allow the FCC and the courts to
6 resolve this issue. Obviously, this is not an issue that can or should be resolved in this
7 merger docket.

1 A. HOW DO THE APPLICANTS RESPOND TO CONDITIONS 7 AND 8
2 REGARDING STRUCTURAL SEPARATIONS AND COMPLIANCE WITH
3 INTERLATA RESTRICTIONS?

4 A. The testimony of Mary LaFave addresses U S WEST's position on the issue of the
5 structural separation of the data business, and the testimony of Steve Davis addresses
6 Qwest's compliance with interLATA restrictions.

7 With regard to the proposed condition that U S WEST split its operations entirely into
8 wholesale and retail operations, U S WEST recommends that the Commission reject out
9 of hand this radical and unsupported proposal.

10 Q. HAVE THE OTHER PARTIES PROPOSING STRUCTURAL SEPARATION OF
11 WHOLESALE AND RETAIL OPERATIONS ADDRESSED HOW SUCH A
12 SEPARATION WOULD BE ACCOMPLISHED?

13 A. No, they have not. The intervenors devote little time and no analysis to supporting this
14 proposed condition, merely attaching it to several pieces of testimony with no discussion.

15 As Staff's witness Dr. Blackmon points out, there are many factors that should be
16 considered in a making such a decision, including the costs of such a split.¹⁷ There is
17 simply no record in this proceeding upon which to base such a decision.

¹⁷ Blackmon Direct, pp.13-14.

1 **Q. IS STAFF’S PROPOSAL TO REQUIRE U S WEST TO FILE A PLAN TO**
2 **STRUCTURALLY SEPARATE WHOLESALE AND RETAIL OPERATIONS**
3 **(ABSENT 271 APPROVAL) ANY MORE ACCEPTABLE THAN THE CLEC**
4 **PROPOSAL?**

5 **A.** No, it is not. First, there is no basis for such a requirement to be imposed in this
6 proceeding. Second, there is absolutely no evidence to suggest that such a requirement
7 would be in the best interests of any constituency. For the record, U S WEST absolutely
8 opposes such a requirement.¹⁸ Further, assuming that the Commission has the authority
9 to order such a separation, the requirement to file a “plan” to separate wholesale and retail
10 operations if U S WEST “fails to win” in-region interLATA from the FCC by March 31,
11 2001 is unreasonable. Such a requirement rests on the false premise that U S WEST has
12 control over the process and timing that will be followed in the approval process in the
13 FCC proceeding. Finally, the requirement creates perverse incentives for the intervenors,
14 driving them to oppose the 271 process for the purpose of triggering the structural
15 separation provision rather than evaluating the filing on its merits.

16
17 **V.CONCLUSION**
18

19 **A. WOULD YOU PLEASE SUMMARIZE YOUR TESTIMONY?**

1 ¹⁸ A single state requirement for such a separation ignores the benefits of integration, scale and scope that the current
2 structure brings.

1 A. My testimony rebuts the intervenors' contention that as a condition of this merger, the
2 Commission must establish wholesale service standards and penalties for
3 nonperformance and mandate U S WEST to provision new UNEs, such as line sharing
4 and access to loop qualification databases prior to FCC requirements to do so. My
5 response explains that a number of forums already exist to address the intervenors issues
6 including a Carrier-to-Carrier Service Quality Rulemaking, Docket No. UT-990261, a
7 Collocation Rulemaking, Docket No. UT-990582, and the Generic Docket for UNE costs
8 and pricing, Docket No. UT-960369 et al. Furthermore, I explain that U S WEST is
9 already in the process of development and implementation of a number intervenor
10 requests in the context of satisfying the requirements of a number of FCC Orders.
11 This includes new unbundled loop and other UNE products required by the UNE Remand
12 Order (CC Docket 96-98), new collocation products and terms required by the Advanced
13 Services Order (CC Docket No. 98-147), and line sharing required by the Line Sharing
14 Order (CC Docket Nos. 98-147, 96-98).
15 My testimony also points out that many of the allegations raised by the intervenors are not
16 supported by facts, nor are they specific to the state of Washington. I provide rebuttal to a
17 number of the more questionable claims and advise the Commission to reject such
18 unsupported and irrelevant allegations.
19 Finally, and most important, I explain that many of the intervenors' proposals and issues
20 are not appropriately raised in this merger docket, but rather should either be negotiated

1 between the parties or resolved in one of many forums that I cite throughout my
2 testimony (i.e., established rulemakings, Generic Docket, interconnection agreement
3 enforcement, or formal complaint).

4 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

5 **A. Yes it does.**

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VI. EXHIBIT MSR-1

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